

**United States Bankruptcy Court  
EASTERN DISTRICT OF WISCONSIN (MILWAUKEE)**

In re	)	
Yvonne D. Erdman	)	Case No.: 21-25828-gmh
	)	
	)	
Address <u>6309 West Spokane Street, Milwaukee, WI 53223</u>	)	Chapter: 13
	)	
Last four digits of Social Security or Individual Tax-payer	)	
Identification (ITIN) No(s), (if any): 1370	)	Judge: G. Michael Halfenger

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**NOTICE OF MOTION FOR RELIEF BY ANNULING THE AUTOMATIC STAY**

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Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R5 the current mortgagee of record, its successors, servicing agents and/or assignees (hereinafter collectively the “Movant”), has filed papers with the court for an Order annulling the automatic stay.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).**

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion then, **within 14 days of the date of this notice**, you or your attorney must:

File with the court a written objection to the motion and a request for a hearing at:

Clerk, U.S. Bankruptcy Court  
U.S. Courthouse  
517 E. Wisconsin Avenue, Room 126  
Milwaukee, WI 53202-4500

If you mail your request and objection to the court for filing, you must mail it early enough so the court will receive it within 14 days of the date of this notice.

You must also send a copy to:

Matthew Comella  
Codilis, Moody & Circelli, P.C.  
15W030 North Frontage Road, Suite 200  
Burr Ridge, IL 60527

Scott Lieske  
Chapter 13 Trustee  
P.O. Box 510920  
Milwaukee, WI 53203

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: December 16, 2021

Signature: /s/ Matthew Comella

Shawn R. Hillmann, Bar#1037005  
Rachael A. Stokas, #61282MO  
Peter C. Bastianen, IL Bar#6244346  
Matthew Comella, Bar#1096303  
Joel P. Fonferko, IL Bar No. 6276490  
Codi C. Gratz, Bar#1086257  
[matthew.comella@codilis.com](mailto:matthew.comella@codilis.com)  
**Codilis, Moody & Circelli, P.C.**  
15W030 North Frontage Road, Suite 200  
Burr Ridge, IL 60527  
(630) 794-5200 Phone  
(630) 654-9946 Fax  
**50-20-00702**

NOTE: This law firm is a debt collector.

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WISCONSIN (MILWAUKEE)**

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IN RE:	) Chapter: 13
Yvonne D. Erdman	)
	) Case No. 21-25828-gmh
	)
Debtor	) Judge G. Michael Halfenger

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**MOTION FOR RELIEF BY ANNULING THE AUTOMATIC STAY**

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**NOW COMES** Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R5 (hereinafter “Movant”), by and through its attorneys, Codilis, Moody & Circelli, P.C., and moves this Honorable Court pursuant to 11 U.S.C §362(d) for an Order annulling the automatic stay, and in support thereof states as follows:

1. Movant is a secured mortgage holder or servicer on the property commonly known as 6309 W Spokane St, Milwaukee, WI 53223 (hereinafter “Subject Property”). A copy of the Note and Mortgage are attached hereto and their contents are incorporated herein by reference;

2. Enforcement of this security interest was stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor’s filing of this petition on 11/08/2021 at approximately 8:54 AM;

3. On 11/08/2021, pursuant to a previously entered judgment of foreclosure, at approximately 10:30 AM a sheriff’s sale was held by the Milwaukee County Sheriff’s Department in an inadvertent violation of the automatic stay;

4. Movant seeks annulment of the automatic stay as Movant had searched for any relevant bankruptcy filing prior to the sheriff’s sale and did not identify any such filing and Movant was not provided with actual and timely notice of Debtor’s petition prior to the judicial sale being held;

5. This case was dismissed by Order of the Court on 11/23/2021 and applying the automatic stay would cause redundancy and delay as Creditor was not notified of the bankruptcy filing prior to the sheriff's sale and Creditor would be forced to vacate the sheriff's sale only to hold a subsequent sale at additional cost to Creditor;

6. PHH Mortgage Corporation services the underlying mortgage loan and note for the property referenced in this Motion for Relief for Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R5 (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R5 (the noteholder). Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R5 (the noteholder) has the right to foreclose because: Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed;

7. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding, including:

\$1,050.00	for Preparation of Notice and Motion, and prosecution of same
\$188.00	for Court filing fee

8. The Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order.

**WHEREFORE**, Movant prays this Court enter an Order pursuant to 11 U.S.C. §362(d) for an Order annulling the automatic stay as to Movant and the Subject Property, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, that any order entered pursuant to this motion be effective immediately upon its entry and for such other relief as may be just and equitable.

Dated December 16, 2021.

Respectfully Submitted,

Codilis, Moody & Circelli, P.C.

By: /s/ Matthew Comella  
Attorney for Movant

Shawn R. Hillmann, Bar#1037005  
Rachael A. Stokas, #61282MO  
Peter C. Bastianen, IL Bar#6244346  
Matthew Comella, Bar#1096303  
Joel P. Fonferko, IL Bar No. 6276490  
Codi C. Gratz, Bar#1086257  
[matthew.comella@codilis.com](mailto:matthew.comella@codilis.com)  
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15W030 North Frontage Road, Suite 200  
Burr Ridge, IL 60527  
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**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WISCONSIN (MILWAUKEE)**

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IN RE:	) Chapter: 13
Yvonne D. Erdman	)
	) Case No. 21-25828-gmh
	)
Debtor	) Judge G. Michael Halfenger

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**CERTIFICATE OF SERVICE**

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The undersigned, an attorney, hereby certifies that I have served a copy of this Notice and Motion upon the parties listed below, as to the Trustee, U.S. Trustee and Debtor's attorney via electronic notice on December 16, 2021 and as to the Debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on December 16, 2021.

Scott Lieske, Chapter 13 Trustee, P.O. Box 510920, Milwaukee, WI 53203  
by electronic notice through ECF  
Yvonne D. Erdman, Pro Se Debtor, 6309 West Spokane Street, Milwaukee, WI 53223  
Office of the U.S. Trustee, 517 East Wisconsin Ave., Room 430, Milwaukee, WI 53202  
by electronic notice through ECF

Codilis, Moody & Circelli, P.C.

By: /s/ Matthew Comella  
Attorney for Movant

Shawn R. Hillmann, Bar#1037005  
Rachael A. Stokas, #61282MO  
Peter C. Bastianen, IL Bar#6244346  
Matthew Comella, Bar#1096303  
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[matthew.comella@codilis.com](mailto:matthew.comella@codilis.com)  
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(630) 794-5200 Phone  
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**MORTGAGE**

PHH Mortgage Services  
1 Mortgage Way  
Mt. Laurel NJ 08054

Tel 877-688-7116  
Fax 856-917-8003

**\*\*IMPORTANT NOTICE\*\***

Upon written request, PHH Mortgage Services will provide the following information regarding the subject loan:

- \* A copy of the payment history through the date the account was last less than 60 days past due.
- \* A copy of the note.
- \* If foreclosure has been commenced or a POC has been filed, copies of any assignments of mortgage or Deed of Trust required to demonstrate the right to foreclose on the borrower's note under applicable state laws.
- \* The name of the investor that holds the loan.

Requests for this information/documentation can be sent to us at the following address:

PHH Mortgage Services  
Mailstop SBRP  
PO Box 5469  
Mt. Laurel, NJ 08054

This notice is being provided for informational and compliance purposes only. It is not an attempt to collect a debt.